

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE ESTATE OF GENEROSO PAOLELLO,
Plaintiff,
-against-
PROVIDENCE REST, INC., et al.,
Defendants.

1:22-cv-09930 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

Defendant Providence Rest, Inc. (“Providence Rest”) removed this action from the New York Supreme Court, County of Bronx, on November 22, 2022. ECF No. 1. On November 23, 2022, Defendant filed a Letter-Motion requesting the Court “hold anticipated motion practice and/or consideration of remand in abeyance until after the appeals of *Leroy v. Hume*, Nos. 21-2158, 21-2159 (cons.), *Rivera-Zayas v. Our Lady of Consolation Geriatric Care Center*, 21-2164, and *Solomon v. St. Joseph Hospital*, No. 21-2729, currently pending in the Second Circuit, are decided.” ECF No. 4. On December 6, 2022, Plaintiff filed a letter opposing Defendant’s Letter-Motion. ECF No. 7.

The Court finds sufficient cause to stay this action pending decision(s) by the United States Court of Appeals for the Second Circuit in *Leroy v. Hume*, Nos. 21-2158, 21-2159 (cons.), *Rivera-Zayas v. Our Lady of Consolation Geriatric Care Center*, 21-2164, and *Solomon v. St. Joseph Hospital*, No. 21-2729 (together, the “Second Circuit Cases”), which may bear on whether this Court has subject-matter jurisdiction over this case. The Second Circuit in *Solomon v. St. Joseph Hospital* sought further briefing from *amici curiae* specifically on the question: “Whether the district court had subject-matter jurisdiction to hear the case below.” *See* No. 21-2729, ECF No. 53. Briefing on that issue is scheduled to be completed in less than a month. *Id.*,


ECF No. 115. The Second Circuit appears poised to decide these issues in the near future, and therefore Plaintiff will not be prejudiced by a short delay. *See LaSala v. Needham & Co.*, 399 F. Supp. 2d 421, 427 n.39 (S.D.N.Y. 2005) (“[S]ituations favoring a stay include those where a higher court is close to settling an issue of law bearing on the action[.]” (citing *Marshall v. AFW Fabric Corp.*, 552 F.2d 471, 472 (2d Cir. 1977))). In light of the fact that resolution of the Second Circuit Cases will likely specifically address whether district courts have subject matter jurisdiction to hear a case like this one, the Court finds good cause to stay this action until the Second Circuit Cases are decided.

Accordingly, IT IS HEREBY ORDERED that this action is stayed pending disposition of the Second Circuit Cases.

IT IS FURTHER ORDERED that the parties shall, **within one week** of the disposition of the Second Circuit Cases, file a joint letter indicating the decision(s)’s bearing on this case and proposing next steps.

Dated: January 11, 2023
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge